IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.6.2007

CORAM:

THE HONOURABLE MR.JUSTICE F.M.IBRAHIM KALIFULLA
AND
THE HONOURABLE MR.JUSTICE S.TAMILVANAN

W.P.No.19705 of 2001

R.Ramalingam .. Petitioner

vs.

1. The Commissioner and
   Secretary to Government,
   Agriculture Department,
   Fort St.George, Chennai-9.

2. The Chief Engineer,
   Agricultural Engineering,
   Nandanam, Chennai-35.

3. Registrar,
   Tamil Nadu Administrative Tribunal,
   Chennai-104. .. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the order passed by the Tamil Nadu Administrative Tribunal in O.A.NO.872 of 1989, dated 22.3.2000 and quash the same and direct the respondents to condone the break of service from 1.11.1977 to 1.9.1979 and to regularise the services of the petitioner with effect from 2.4.1970 and confer all the consequential benefits.

For petitioner : Mr.T.Sellapandian
For respondents 1 & 2 : Mr.M.Dhandapani, Spl.G.P.

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ORDER

(The Order of the Court was made by F.M.Ibrahim Kalifulla,J)

The petitioner is aggrieved by the order of the Tamil Nadu Administrative Tribunal, passed in O.A.No.872 of 1989, dated 22.3.2000.

2. The issue involved in the Original Application was whether the petitioner is entitled for counting the period of service between 31.5.1965 and 6.2.1978 during which period he worked as Junior Assistant

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earlier in the Civil Supplies Department and as Store Keeper in the Agriculture Department from 21.3.1970 till the date of his termination. Subsequently, the petitioner got selected as Store Keeper by the Tamil Nadu Public Service Commission and was appointed with effect from 1.9.1979. He retired from the services of the State in the year 2003. In respect of one Thiru.S.Venkataramani who was also initially appointed temporarily as Store Keeper, but who was also not recruited through the TNPSC, but was subsequently appointed to the post of Store Keeper in a regular recruitment made by the TNPSC, who was conferred the benefit of service rendered by him prior to the date of his regular recruitment through the TNPSC, in G.O.Ms.No.712, Agriculture (AA.IV) Department, dated 7.4.1979. Prompted by issuance of the said G.O. in favour of Thiru.S.Venkataramani, the petitioner preferred a representation before the respondents, which was rejected by the respondents in their communication dated 5.8.1988 and 24.1.1989. Challenging the same, the petitioner preferred the present O.A.No.872 of 1989 before the Tribunal.

3. However much the petitioner would rely upon G.O.Ms.No.712, Agriculture Department, dated 7.4.1979 issued in favour of Thiru.S.Venkataramani, the marking difference in the case of Thiru.s.Venkataramani and the case of the petitioner is that while Thiru.Venkataramani's services were never disrupted right from the date of his initial appointment on temporary basis, which was continued even after his appointment on regular basis by the TNPSC, in the case of the petitioner, his service, which commenced on 31.5.1965 in the Civil Supplies Department, which was subsequently continued in the Agriculture Department as Store Keeper, was terminated by a specific order of termination dated 6.2.1978 with effect from 1.11.1977. After the said order, the subsequent appointment of the petitioner in the post of Store Keeper by way of regular selection by the TNPSC, came to be made only on 1.9.1979, i.e. after a gap of more than one year and seven months.

4. Therefore, when once the earlier temporary appointment of the petitioner was terminated by a specific order dated 6.2.1978, the relationship of the petitioner got snapped and therefore, there was no question of counting the said period of service for the purpose of tagging along with the service which commenced on and after 1.9.1979. Therefore, the Tribunal found that the rejection of the petitioner's representation by respondents 1 and 2 was perfectly justified and there was no scope to interfere with the same.

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5. We also concur with the said conclusion of the Tribunal and state that the case of Thiru.Venkataramani as considered and granted by the respondent-State in G.O.Ms.No.712, dated 7.4.1979, was peculiar to the facts of the service relating to the said person and on the basis of the said G.O., no benefit could have been granted to the petitioner. Since, as noted, in the case of the petitioner, there was a specific disruption by way of termination in the year 1978, the petitioner can be stated to have commenced his service in the State afresh only from 1.9.1979 and whatever

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temporary service rendered prior to the said date which resulted between 31.5.1965 and 6.2.1978 cannot, by any stretch of imagination, be tagged along with the subsequent service.

6. The Writ Petition therefore fails and the same is dismissed. No costs.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

cs

Copy to
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Secretary to Government,
Agriculture Department,
Fort St.George, Chennai-9.

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3. Registrar,
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Chennai-104.

+ 1 CC To Mr. S.Mani, Advocate SR NO.34758

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